

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2333 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

P R PATEL

Versus

ADDL. DIRECTOR

Appearance:

1. Special Civil Application No. 2333 of 1989
Mr. BT Gupta, for MR YN OZA for
Petitioner No. 1
NOTICE SERVED for Respondent No. 1
Mr. MA Bukhari, AGP for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 24/01/2003

ORAL JUDGEMENT

The present Special Civil Application is filed seeking a direction to quash and set aside the order dated 29-1-1988 and 31.1.1989 passed by the respondent No.2 by which the petitioner's representations claiming the pay-scale of Rs. 185-270 with effect from 18.2.1965

to 1.8.1966 were rejected.

2. The petitioner was appointed on the post of X-ray Technician in the pay-scale of Rs. 145-245. However he was posted at Civil Hospital, Ahwa, District-Dangs where the said post had the pay-scale of Rs. 185-270. Since the petitioner was not given the pay-scale of Rs. 185-270 from 18-2-1965, the petitioner moved an application on 16-5-1966 to the Director of Health and Medical Services (Medical), Ahmedabad-16, wherein it was stated that the post of X-ray Technician at Civil Hospital, Ahwa was of the grade of Rs. 185-270 and the same should be given to him with effect from 18.2.1965. The petitioner has further submitted that the said pay-scale was given to him with effect from 1-8-1966, vide order of officiation passed on 20.8.1966, however his claim from 18-2-1965 was not considered by the respondent authorities. Hence he had made representations on 16-9-1983 and 15-4-1987. In response to the said representations, the respondent No.2 has passed an order on 29-1-1988 wherein it was stated that when X-ray Technicians were in the pay-scale of Rs. 145-245 and if the pay-scale of Rs. 185-270 is given to the petitioner it would cause injustice to all other persons. The petitioner thereafter moved another representation on 14-3-1988 to the Secretary, Health and Family Welfare Department, Gandhinagar reiterating the same claim for pay-scale of Rs. 185-270 for the period from 18-2-65 to 1-8-1966. The said representation was also rejected by the respondent vide letter dated 31-1-1989. Both these communications are challenged in the present Special Civil Application.

3. Heard Mr. Gupta, ld. advocate appearing for the petitioner and Mr. Bukhari, ld. AGP appearing for the respondent. Mr. Gupta has strongly urged that though the petitioner has worked as X-ray Technician from 18-2-1965 and though the said post had the pay-scale of Rs. 185-270 the same was not given to him. The respondent authorities are not justified in denying the said pay-scale to the petitioner. He has further submitted that even with regard to other persons who were appointed at the Civil Hospital at Ahwa as X-ray Technicians, they were given the pay-scale of Rs. 185-270 and hence the said benefit should be given to the petitioner. On the other hand, Mr. Bukhari, ld. AGP has submitted that the petitioner has made false statement in the Special Civil Application to the effect that he came to know about the pay-scale only in 1983. As a matter of fact, the application which the petitioner moved on 16-5-1966 very well indicates that he was aware

about the said fact in 1966 and on the basis of this the order of officiation was passed granting him the benefit of pay-scale of Rs. 185-270 with effect from 1st August 1966. It appears that the petitioner was happy with the order and he did not pursue the matter any further till 1983. Mr. Bukhari has further submitted that 18 senior employees were in the pay-scale of Rs. 145-245 and if the petitioner was given the said benefit of pay-scale Rs. 185-270 it would create pay anomaly and administrative difficulties. He has therefore urged that the petitioner's claim was rightly rejected by the authorities and the order passed by the authorities should not be disturbed by this Court.

4. After having heard the ld. advocates appearing for the respective parties and after having perused the memo of Special Civil Application, the documents attached therewith as well as the affidavit-in-reply, I am of the view that no case is made out by the petitioner for interfering with the decision taken by the respondent authorities. The petitioner had not pursued the matter from 1966 to 1983. The very fact that the petitioner was happy with the order passed by the respondent authorities in 1966 pursuant to his application dated 16-5-1966 whereby the order regarding officiation was passed, the claim made by the petitioner subsequently in 1983 appears to be illfounded and though he has worked at Civil Hospital, Ahwa, the said claim cannot be accepted for the simple reason that other senior X-ray Technicians were getting less salary and this would create difficulties in the way of the respondent-organisation. Even otherwise, the period is very short being 18-2-65 to 1-8-66 and the amount claimed by the petitioner is also of not much significance.

5. Taking overall view of the matter, I am of the view that the respondent authorities have not committed any error or the decision taken by them cannot be said to be improper, unjust, unreasonable which calls for any interference while exercising writ jurisdiction under Article 226/227 of the Constitution. Therefore, there is no substance in the petition and hence it is rejected. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]